

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIAN COOLEY and COOLEY & CO. LTD.
Plaintiffs,

-against-

PENGUIN GROUP (USA) INC., DK PUBLISHING,
INC. an affiliate of PENGUIN GROUP (USA) INC.,
DORLING KINDERSLEY LIMITED. an affiliate of
PENGUIN GROUP (USA) INC., GETTY IMAGES,
INC., CORBIS CORPORATION, RGB VENTURES
LLC D/B/A SUPERSTOCK and LOUIS PSIHOYOS,

Defendants.

Index No. 12-CV-0001 (LAK)

**DECLARATION OF SAM P. ISRAEL IN SUPPORT OF THE
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Respectfully submitted,

Sam P. Israel, P.C.

By: S/ Sam P. Israel
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Attorneys for Plaintiffs,
Brian Cooley and Cooley & Co. Ltd.

SAM P. ISRAEL hereby declares pursuant to 28 U.S.C. § 1746, under the penalties of perjury as follows:

1. I am a member of the Bar of this Court in good standing, and counsel to Brian Cooley and Cooley & Co. Ltd—Plaintiffs in this action. I submit this declaration for the purpose of placing before the Court true and correct copies of certain documents that support the Plaintiffs’ motion for partial summary judgment against the only remaining defendant in this action, Louis Psihoyos (the “**Defendant**” or **Psihoyos**”).

2. Attached as Exhibit 1 is a true and correct copy of the Plaintiffs’ Order to Show Cause for Preliminary Injunction.

3. Attached as Exhibit 2 is a true and correct copy of the Plaintiff’s Complaint in this action.

4. Attached as Exhibit 3 is a true and correct copy of an invoice (no. 9500207) from the Plaintiff to Chris Sloan at the National Geographic Society (“NGS”) with respect to the artwork at issue in this lawsuit (the “**Works**”).

5. Attached as Exhibit 4 is a true and correct copy of the March 23, 2012 Letter from the undersigned to Jeffrey L. Loop (counsel for Corbis Corporation) in connection with this action.

6. Attached as Exhibit 5 is a true and correct copy of the check from NGS to Brian Cooley, dated December 19, 1995.

7. Attached as Exhibit 6 are true and correct copies of the pages from books and web sites containing images of the Works, as they appeared prior to January 3, 2012.

8. Attached as Exhibit 7 is a true and correct copy of the Answer and Additional Defenses of Defendant Louie Psihoyos.

9. Attached as Exhibit 8 is a true and correct copy of the Affidavit of Louis Psihoyos in Support of Defendants' Supplemental Memorandum of Law in Opposition to Plaintiffs' Motion for a Preliminary Injunction.

10. Attached as Exhibit 9 is a true and correct copy of the agreement between NGS and Psihoyos, executed on December 24, 1995.

11. Attached as Exhibit 10 is a true and correct copy of the copyright registration statements submitted by Psihoyos in this action.

12. Attached as Exhibit 11 is a true and correct copy of the Declaration of Lanny Ziering and appended exhibits.

13. Attached as Exhibit 12 is a true and correct copy of the transcript of the January 18, 2012 hearing on the Plaintiffs' Order to Show Cause.

14. Attached as Exhibit 13 is a true and correct copy of the transcript of the deposition of Brian Cooley conducted on March 1, 2012.

15. Attached as Exhibit 14 is a true and correct copy of the transcript of the deposition of defendant Louis Psihoyos conducted on March 8, 2012.

16. Attached as Exhibit 15 is a true and correct copy of the transcript of the deposition of the Fed. R. Civ. P. R. 30(b)(6) witness, Terry Adamson, conducted on March 12, 2012.

17. Attached as Exhibit 16 is a true and correct copy of the transcript of the deposition of Chris Sloan conducted telephonically on March 12, 2012.

18. Attached as Exhibit 17 is a true and correct copy of a screenshot containing copyright notice from www.psihoyos.com.

19. Attached as Exhibit 18 is a true and correct copy of the Stipulated Injunction concerning Psihoyos issued on March 16, 2012.

20. Attached as Exhibit 19 is a true and correct copy of the check from NGS to Louie Psihoyos Photography, dated January 3, 1996.

21. Attached as Exhibit 20 is a true and correct copy of the Declaration of Yuki A. Hirose for [former] Defendant Penguin Group (USA) Inc. submitted in connection with this action.

22. Attached as Exhibit 21 is a true and correct copy of the decision in *Flaherty v. Filardi*, 2007 U.S. Dist. LEXIS 4595 (S.D.N.Y. Jan. 24, 2007).

23. Attached as Exhibit 22 is a true and correct copy of the decision in *Boone v. Jackson*, 2006 U.S. App. LEXIS 28565 (2d Cir. Nov. 15, 2006).

Dated: New York, NY
June 28, 2012

Respectfully submitted,

Sam P. Israel, P.C.

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